ASSEMBLY, No. 5796

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:
Assemblyman JOHN ARMATO
District 2 (Atlantic)
Assemblyman PEDRO MEJIA
District 32 (Bergen and Hudson)
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District 4 (Camden and Gloucester)

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Assemblywoman Vainieri Huttle

SYNOPSIS

Requires water purveyors and owners of public wastewater collection or treatment systems to consider climate change-related issues in asset management planning.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/1/2021)

AN ACT concerning the inclusion of climate change-related considerations in asset management plans adopted by water purveyors and the owners of public wastewater collection or treatment systems, supplementing P.L.2017, c.133 (C.58:31-1 et seq.), and supplementing chapter 10A of Title 58 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. As used in this section:

"Department" means the Department of Environmental Protection.

"Discharge" means the same as that term is defined by section 3 of P.L.1977, c.74 (C.58:10A-3).

"Owner" means a municipal or county government, a municipal utilities authority, an investor-owned corporation, a private company, or any other entity that owns a public wastewater collection system or a public wastewater treatment system operating in the State.

"Public wastewater collection system" means a wastewater collection system that is regulated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), and which consists of structures that, operating alone or with other structures, result in the collection and conveyance or transmission of wastewater from private, commercial, institutional, or industrial sources to public wastewater treatment systems for subsequent treatment.

"Public wastewater treatment system" means a wastewater treatment system that is regulated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), and which consists of a structure or structures in which domestic or combined domestic and industrial liquid wastes or sewage are subjected to any process in order to remove or alter the constituent parts thereof so as to render the wastes less offensive or dangerous to the public health, safety, welfare, comfort, property, or environment of any of the inhabitants of the State before the discharge of the resulting effluent either directly or indirectly into any of the waters of the State.

"Upset" means the same as that term is defined by section 3 of P.L.1977, c.74 (C.58:10A-3).

b. Commencing on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the owner of a public wastewater treatment system or public wastewater collection system who prepares or revises an asset management plan pursuant to the department's best practice guidelines and regulations adopted under the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), shall ensure that the asset management plan addresses the

current and future impacts of, identifies the specific hazards and risks associated with, and includes strategies to prevent and mitigate the hazardous impacts of, climate change on system assets and operability. Each asset management plan shall, at a minimum:

(1) identify and analyze the existing and future threats to, and vulnerabilities of, system assets, which threats and vulnerabilities are resulting, or are likely to result, from increasing temperatures, droughts, flooding, hurricanes, sea-level rise, and other natural hazards either caused or worsened by climate change;

(2) include a build-out analysis of future asset development and acquisition, and provide an assessment as to whether, how, and to what extent those future asset developments and acquisitions, particularly in riparian or coastal flood zones and other low-lying areas, will be negatively impacted by the threats and vulnerabilities identified pursuant to paragraph (1) of this subsection;

(3) identify the critical assets that are necessary to sustain system operability during a natural disaster and the critical assets that are necessary to prevent system upsets and unpermitted discharges; describe the specific climate change-related threats and vulnerabilities, identified pursuant to paragraph (1) of this subsection, that are likely to affect each critical asset, particularly when located in a riparian or coastal flood zone or other low-lying area; and include a plan to ensure that all critical assets are maintained, at all times, in an operational state and in a manner that facilitates the ongoing prevention of system upsets and unpermitted discharges;

(4) include an assessment as to whether, how, and to what extent, the threats and vulnerabilities identified pursuant to paragraph (1) of this subsection will increase the costs of asset maintenance, repair, replacement, and operation over time, and whether, how, and to what extent, those threats and vulnerabilities will be likely to impact, over time, the successful implementation of other components of the system's asset management plan;

(5) describe the proactive and preventive means, methods, strategies, procedures, and protocols, and the asset acquisition, development, repair, replacement, and design and construction standards, that will be used to: (a) eliminate or reduce the threats and vulnerabilities identified pursuant to paragraph (1) of this subsection; (b) avoid the hazardous impacts of climate change on the system's assets, particularly those assets that are identified as critical, pursuant to paragraph (3) of this subsection, or that are located in a riparian or coastal flood zone or other low-lying area; and (c) prevent system upsets and unpermitted discharges resulting from climate change-related factors; and

(6) describe the means, methods, strategies, procedures, and protocols, and the asset acquisition, development, repair, replacement, and design and construction standards, that will be used to promptly and effectively: (a) respond to and mitigate,

remediate, or off-set the hazardous effects of climate change on system assets, particularly those assets that are identified as critical, pursuant to paragraph (3) of this subsection, or that are located in a riparian or coastal flood zone or other low-lying area; and (b) redress system upsets and unpermitted discharges resulting from climate change-related factors.

c. The climate change-related assessments and strategies that are incorporated into an asset management plan, pursuant to this section, shall be based on the most recent natural hazard projections and best available science from the department.

2. a. Commencing on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), a water purveyor who prepares or revises an asset management plan pursuant to section 7 of P.L.2017, c.133 (C.58:31-7) shall ensure that the asset management plan addresses the current and future impacts of, identifies the specific hazards and risks associated with, and includes strategies to prevent and mitigate the hazardous impacts of, climate change on system assets and operability. Each asset management plan shall, at a minimum:

(1) identify and analyze the existing and future threats to, and vulnerabilities of, system assets that are resulting, or are likely to result, from increasing temperatures, droughts, flooding, hurricanes, sea-level rise, and other natural hazards either caused or worsened by climate change;

(2) include a build-out analysis of future asset development and acquisition, and provide an assessment as to whether, how, and to what extent those future asset developments and acquisitions, particularly in riparian or coastal flood zones and other low-lying areas, will be negatively impacted by the threats and vulnerabilities identified pursuant to paragraph (1) of this subsection;

(3) identify the critical assets that are necessary to sustain system operability during a natural disaster; describe the specific climate change-related threats and vulnerabilities, identified pursuant to paragraph (1) of this subsection, that are likely to affect each critical asset, particularly when located in a riparian or coastal flood zone or other low-lying area; and include a plan to ensure that all critical assets are maintained, at all times, in an operational state;

(4) include an assessment as to whether, how, and to what extent, the threats and vulnerabilities identified pursuant to paragraph (1) of this subsection will increase the costs of asset maintenance, repair, replacement, and operation over time, and whether, how, and to what extent, those threats and vulnerabilities will be likely to impact, over time, the successful implementation of other components of the system’s asset management plan;

(5) describe the proactive and preventive means, methods, strategies, procedures, and protocols, and the asset acquisition, development, repair, replacement, and design and construction

standards, that will be used to eliminate or reduce the threats and vulnerabilities identified pursuant to paragraph (1) of this subsection and avoid the hazardous impacts of climate change on the system's assets, particularly those assets that are identified as critical, pursuant to paragraph (3) of this subsection, or that are located in a riparian or coastal flood zone or other low-lying area; and

(6) describe the means, methods, strategies, procedures, and protocols, and the asset acquisition, development, repair, replacement, and design and construction standards, that will be used to promptly and effectively respond to and mitigate, remediate, or off-set the hazardous effects of climate change on system assets, particularly those assets that are identified as critical, pursuant to paragraph (3) of this subsection, or that are located in a riparian or coastal flood zone or other low-lying area.

b. The climate change-related assessments and strategies that are incorporated into an asset management plan, pursuant to this section, shall be based on the most recent natural hazard projections and best available science from the Department of Environmental Protection.

3. The Commissioner of Environmental Protection shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to implement the provisions of this act.

4. This act shall take effect immediately.

STATEMENT

This bill would require any asset management plan (AMP) that is adopted or revised, on or after the date the bill is enacted into law, either by a water purveyor or by the owner of a public wastewater collection or treatment system, to identify the current and future impacts of, and specific hazards and risks associated with, climate change, and establish strategies to prevent and mitigate the hazardous effects of climate change on system assets and operability. The bill would require each AMP, in particular, to:

1) identify and analyze the existing and future threats to, and vulnerabilities of, system assets that are resulting, or are likely to result, from increasing temperatures, droughts, flooding, hurricanes, sea-level rise, and other natural hazards that are either caused or worsened by climate change;

2) include a build-out analysis of future asset development and acquisition, and an assessment as to whether, how, and to what extent those future asset developments and acquisitions, particularly in riparian or coastal flood zones and other low-lying areas, will be

negatively impacted by the climate change-related threats and vulnerabilities identified in the AMP;

3) identify the critical assets that are necessary to sustain system operability during a natural disaster and, in the case of a wastewater collection or treatment system, that are necessary to prevent system upsets and unpermitted discharges; describe the specific climate change-related threats and vulnerabilities that are likely to affect each critical asset, particularly when located in a riparian or coastal flood zone or other low-lying area; and include a plan to ensure that all critical assets are maintained, at all times, in an operational state and, in the case of a wastewater collection or treatment system, are maintained in a manner that facilitates the ongoing prevention of system upsets and unpermitted discharges;

4) include an assessment as to whether, how, and to what extent, identified climate change-related threats and vulnerabilities will increase the costs of asset maintenance, repair, replacement, and operation over time, and whether, how, and to what extent, such threats and vulnerabilities will be likely, over time, to impact the successful implementation of other components of the AMP;

5) describe the proactive and preventive means, methods, strategies, procedures, and protocols, and the asset acquisition, development, repair, replacement, and design and building standards that will be used to eliminate or reduce identified climate change-related threats and vulnerabilities, avoid the hazardous impacts of climate change on the system's assets, particularly those that are deemed to be critical or that are located in a riparian or coastal flood zone or other low-lying area, and, in the case of a wastewater collection or treatment system, prevent system upsets and unpermitted discharges; and

6) describe the means, methods, strategies, procedures, and protocols, and the asset acquisition, development, repair, replacement, and design and building standards that will be used to promptly and effectively respond to and mitigate, remediate, or offset the hazardous effects of climate change on system assets, particularly those that are deemed to be critical or that are located in a riparian or coastal flood zone or other low-lying area, and, in the case of a wastewater collection or treatment system, the strategies and standards that will be used to promptly and effectively redress system upsets and unpermitted discharges resulting from climate change-related factors.

The bill requires the climate change-related components of each system's AMP to be based on the most recent natural hazard projections and best available science from the Department of Environmental Protection.